



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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Preston Bryant
Secretary of Natural Resources

David K. Paylor
Director

AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO EVONIK GOLDSCHMIDT CORPORATION Registration Number 50891

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and 10.1-1316, between the State Air Pollution Control Board and Evonik Goldschmidt Corporation, for the purpose of resolving certain alleged violations of the Air Pollution Control Law and/or Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Air Pollution Control Law" means Va. Code § 10.1-1300 *et seq.*
3. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.

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4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "Order" means this document, also known as a Consent Order.
7. "Goldschmidt" means Evonik Goldschmidt Corporation, a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
8. "Facility" means the Evonik Goldschmidt Corporation Hopewell Plant, a batch chemical processing facility (Registration Number 50891), located at 914 East Randolph Street, Hopewell, Virginia.
9. "Permit" means the State Operating Permit issued to Goldschmidt on April 27, 2005.
10. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
11. "Regulations" mean the Commonwealth of Virginia State Air Control Board Regulations for the Control and Abatement of Air Pollution, located in the Virginia Administrative Code ("VAC"), 9 VAC 5-10-10 *et seq.*
12. "VOC" means volatile organic compound, which is an air pollutant under the Clean Air Act.

SECTION C: Findings of Fact and Conclusions of Law

1. Goldschmidt owns and operates the Facility in Hopewell, Virginia. Goldschmidt was issued a State Operating Permit ("Permit") on April 27, 2005 authorizing certain emissions from the Facility, which is a synthetic minor stationary source. Virginia Code § 10.1-1322 of the State Air Pollution Control Law and 9 VAC 5-80-1010.D of the Virginia Regulations for the Control and Abatement of Air Pollution ("Regulations") require the Facility to abide by the conditions of the issued Permit.
2. On March 19, 2007, the Department received the Facility's 2006 Annual Emissions Inventory Statement and Annual Update.
3. On April 6, 2007, the Department received a letter of Voluntary Disclosure of Potential Violations for the Amidoamine Process. (The April 6, 2007 letter of Voluntary Disclosure of Potential Violations did not meet the criteria as set forth by Va. Code § 10.1-1199 for immunity against administrative or civil penalties for voluntarily disclosed violations.) The April 2007 letter notified the Department that the Facility had exceeded the Permit Amidoamine throughput limit by 1,449,880 lbs/year and the VOC emission



limit by 2.5 tons/year. Goldschmidt also reported that the Facility had exceeded the Permit Betaine throughput limit by 160,000 lbs/year.

4. After reviewing the annual records provided by Goldschmidt, the Department conducted a formal inspection of the Facility on May 24, 2007; and at Goldschmidt's request, delayed the records inspection until June 5, 2007. Goldschmidt submitted additional information and records to the Department on June 4 and 15, 2007. Goldschmidt reported that they did not submit all the relevant information and records due to a miscommunication with the Department.
5. Based on the Department's review of the information provided by Goldschmidt and observations from the formal inspection and records review, Goldschmidt appeared to be in non-compliance with Permit requirements and conditions. The following alleged violations were observed:
 - an operating plan developed for storage tanks, *PB-20 and PB-30*, and the monitoring results were not provided for review to demonstrate compliance as required by Condition 3.2.a and 21.d. of the Permit and 40 CFR § 60.115b(c);
 - annual throughput records made available during the inspection indicated that during 2005 and 2006, the 12-month rolling throughput totals for Amidoamine and Betaine potentially exceeded Permit limits as established in Condition 7 of the Permit;
 - written operating procedures and a maintenance schedule for the batch chemical processing facility and air pollution control equipment, were not made available to demonstrate that the Facility is operated in a manner consistent with air pollution control practices for minimizing air emissions, as required by Condition 16 of the Permit and 9 VAC 5-50-20 E;
 - records of annual VOC process emissions made available indicated that the facility exceeded the Permit's throughput limit for Amidoamine for approximately 22 consecutive months; and the throughput limit for Betaine for approximately 1 month as established in Condition 9 of the Permit;
 - records were not made available demonstrating that the facility implemented the tensides scrubber to control VOC emissions or curtail production to prevent excess VOCs as required by Condition 18 and 21.c. of the Permit; and
 - daily records of fuel throughput to the 600 horsepower ("hp") firetube boiler were not made available as required by Condition 21.b. of the Permit and 40 CFR § 60.48c.
6. VA Code § 10.1-1322 states that failure to comply with any condition of a permit shall be considered a violation of the Air Pollution Control Law.

7. On October 2, 2007 DEQ issued Notice of Violation ("NOV") Number 07-07-PRO-406 to Goldschmidt citing the alleged violations as described in item # 5 above.
8. On November 9, 2007, Department staff met with Goldschmidt. At the meeting, Goldschmidt made a presentation and submitted information that was not made available during the June 5, 2007 records inspection in response to the alleged violations. Goldschmidt contends the following:
 - standards for volatile organic liquid storage vessels do not apply to the vessels designated as PB-20 and PB-30, since they are pressure vessels designed to operate in excess of 204.9 kPa and operate without emitting VOCs to the atmosphere pursuant to 40 CFR § 60.110b(d)(2);
 - records made available during the records inspection used an erroneous 13-month versus a 12-month rolling average that over-reported the Amidoamine production in 2005 and 2006, and that the 2006 emissions statement for Betaine throughput volume was not accurate due to an incorrect production volume used for March 2006;
 - written operating procedures and maintenance schedules for pollution control equipment are maintained in an Enterprise computer software system;
 - further investigation into plant activities indicated that process improvements in 2005 had reduced the emissions factor in the Amidoamine process so that the facility only exceeded Permit limits for two months in 2005 and that Betaine production limits were not exceeded at any time in 2005 and 2006;
 - if the facility had recognized that the plant was exceeding its Amodoamine production they would have curtailed production not activated the tensides scrubber to control VOC emissions; and
 - the daily records of fuel throughput to the 600 hp firetube boiler are kept in an electronic database called PIMS.
9. DEQ's response to Goldschmidt's assertions is that Goldschmidt has not applied for a Permit modification to re-designate the storage vessels, PB-20 and PB-30, to pressure vessels; did not provide written operating procedures and a maintenance schedule for the pollution control equipment or provide the daily records of fuel throughput to the 600 hp firetube boiler as required at the time of the scheduled June 5, 2007 records inspection; and did not curtail production nor activate the tensides scrubber to control VOC emissions during exceedances. Nonetheless, the Department did consider the re-submitted records with the corrected formulation for the 12-month versus the 13-month rolling throughput records and assessed the company for 11 months of violations versus the original 22 months; and the company's assertion that the VOC emissions for Amidoamine and Betaine production are reduced due to process changes.

10. The Department met with a representative of Goldschmidt again on January 10, 2008 to further discuss resolution of the alleged violations.
11. A modified Permit was issued to Goldschmidt on February 6, 2008 to address requested changes by Goldschmidt. Goldschmidt requested increased throughput and decreased emissions limits for Amidoamine and Betaine, and other process changes.
12. On October 14, 2008, Goldschmidt submitted by certified mail to the Department an application for an amendment to the Facility's State Operating Permit to identify vessels PB-20 and PB-30 as pressure vessels that are not subject to 40 CFR Part 60, subpart Kb, rather than as storage vessels subject to subpart Kb.
13. On October 14, 2008, Goldschmidt submitted by certified mail to the Department a summary of revisions made to the Facility's Environmental Management System to prevent the recurrence of violations alleged in this Order.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders Goldschmidt, and Goldschmidt voluntarily agrees to pay a civil charge of **\$23,658** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check, certified check, money order, or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Payment shall include the Federal Tax Identification Number for the Facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Goldschmidt, for good cause shown by Goldschmidt, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Goldschmidt by DEQ on October 2, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein. Goldschmidt does not waive any rights it may have

to object to enforcement actions by other federal, state, or local authorities arising out of the same or similar facts alleged in this Order.

3. For purposes of this Order and subsequent actions with respect to this Order, Goldschmidt admits the jurisdictional allegations, but neither admits nor denies the factual findings, and conclusions of law contained herein.
4. Goldschmidt consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Goldschmidt declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein except that Goldschmidt reserves its right to a hearing or other administrative proceeding authorized or required by law or to judicial review of any subsequent amendments of this Order issued by the Board without the consent of Goldschmidt. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Goldschmidt to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. Goldschmidt does not waive any rights it may have to object to enforcement actions by other federal, state, or local authorities arising out of the same or similar facts alleged in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Goldschmidt shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Goldschmidt shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Goldschmidt shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Goldschmidt. Notwithstanding the foregoing, Goldschmidt agrees to be bound by any compliance date, which precedes the effective date of this Order.
- 11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Goldschmidt. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Goldschmidt from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
- 12. By its signature below, Goldschmidt voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 22nd day of May, 2009.



Richard F. Week, Director
Department of Environmental Quality

Goldschmidt voluntarily agrees to the issuance of this Order.

AM

By: R. R. M.
Dr. Reinhold Brand
President

Date: 05/14/09

Commonwealth of Virginia

City/County of Hopewell

The foregoing document was signed and acknowledged before me this 14th day of
May, 2009, by Reinhold Brand, who is
(name)
President of Goldschmidt, on behalf of the Corporation.
(title)



Evelyn H. Blakey, 298338
Notary Public

My commission expires: November 30, 2012

Phil